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(7) Submit Claims for Reimbursement in accordance with § 220.11 of this part and procedures established by the State agency, or FNSRO where applicable;

(8) Maintain, in the storage, preparation and service of food, proper sanitation and health standards in conformance with all applicable State and local laws and regulations, and comply with the food safety requirements in paragraph (a)(2) and paragraph (a)(3) of this section;

(9) Purchase, in as large quantities as may be efficiently utilized in its nonprofit school food service, foods designated as plentiful by the State Agency, or CFPDO, where applicable;

(10) Accept and use, in as large quantities as may be efficiently utilized in its nonprofit school food service, such foods as may be offered as a donation by the Department;

(11) Maintain necessary facilities for storing, preparing, and serving food;

(12) Maintain a financial management system as prescribed by the State agency, or FNSRO where applicable;

(13) Upon request, make all accounts and records pertaining to its nonprofit school food service available to the State agency, to FNS and to OA for audit or review at a reasonable time and place. Such records shall be retained for a period of three years after the end of the fiscal year to which they pertain, except that if audit findings have not been resolved, the records shall be retained beyond the three-year period as long as required for the resolution of the issues raised by the audit;

(14) Retain documentation of free or reduced price eligibility as follows:

(i) Maintain files of currently approved and denied free and reduced price applications which must be readily retrievable by school for a period of three years after the end of the fiscal year to which they pertain; or

(ii) Maintain files with the names of children currently approved for free meals through direct certification with the supporting documentation, as specified in § 245.6(b)(4) of this chapter, which must be readily retrievable by school. Documentation for direct certification must include information obtained directly from the appropriate State or local agency, or other appro-

priate individual, as specified by FNS, that:

(A) A child in the *Family*, as defined in § 245.2 of this chapter, is receiving benefits from *SNAP*, *FDPIR* or *TANF*, as defined in § 245.2 of this chapter; if one child is receiving such benefits, all children in that family are considered to be directly certified;

(B) The child is a homeless child as defined in § 245.2 of this chapter;

(C) The child is a runaway child as defined in § 245.2 of this chapter;

(D) The child is a migrant child as defined in § 245.2 of this chapter;

(E) The child is a Head Start child, as defined in § 245.2 of this chapter; or

(F) The child is a foster child as defined in § 245.2 of this chapter.

(15) Comply with the requirements of the Department's regulations respecting nondiscrimination (7 CFR part 15).

(f) Nothing contained in this part shall prevent the State Agency from imposing additional requirements for participation in the program which are not inconsistent with the provisions of this part.

(g) *Program evaluations.* Local educational agencies, school food authorities, schools, and contractors must cooperate in studies and evaluations conducted by or on behalf of the Department, related to programs authorized under the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966.

(44 U.S.C. 3506; sec. 819, Pub. L. 97-35, 95 Stat. 533 (42 U.S.C. 1759a, 1773 and 1757); Pub. L. 79-396, 60 Stat. 231 (42 U.S.C. 1751); Pub. L. 89-647, 80 Stat. 885-890 (42 U.S.C. 1773); Pub. L. 91-248, 84 Stat. 207 (42 U.S.C. 1759))

[32 FR 34, Jan. 5, 1967]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 220.7, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 220.8 Meal requirements for breakfasts.

(a) *General requirements.* This section contains the meal requirements applicable to school breakfasts for students in grades K to 12. With the exception of the milk component, the meal requirements must be implemented beginning July 1, 2013 or as otherwise specified. School food authorities wishing to

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adopt the provisions of this section prior to the required date of compliance may do so with the approval of the State agency. In general, school food authorities must ensure that participating schools provide nutritious, well-balanced, and age-appropriate breakfasts to all the children they serve to improve their diet and safeguard their health.

(1) *General nutrition requirements.* School breakfasts offered to children age 5 and older must meet, at a minimum, the meal requirements in paragraph (b) of this section. Schools must follow a food-based menu planning approach and produce enough food to offer each child the quantities specified in the meal pattern established in paragraph (c) of this section for each age/grade group served in the school. In addition, school breakfasts must meet the dietary specifications in paragraph (f) of this section. Schools offering breakfasts to children ages 1 to 4 and infants must meet the meal pattern requirements in paragraph (o) of this section. When breakfast is served in the cafeteria, schools must make potable water available and accessible without restriction to children at no charge.

(2) *Unit pricing.* Schools must price each meal as a unit. The price of a reimbursable lunch does not change if the student does not take a food item or requests smaller portions. Schools must identify, near or at the beginning of the serving line(s), the food items that constitute the unit-priced reimbursable school meal(s).

(3) *Production and menu records.* Schools or school food authorities, as applicable, must keep production and menu records for the meals they produce. These records must show how the meals offered contribute to the required food components and food quantities for each age/grade group every day. Labels or manufacturer specifications for food products and ingredients used to prepare school meals must indicate zero grams of *trans* fat per serving (less than 0.5 grams). Schools or school

food authorities must maintain records of the latest nutritional analysis of the school menus conducted by the State agency. Production and menu records must be maintained in accordance with FNS guidance.

(b) *Meal requirements for school breakfasts.* School breakfasts for children ages 5 and older must reflect food and nutrition requirements specified by the Secretary. Compliance with these requirements, once fully implemented as specified in paragraphs (c), (d), (e), (f), (h), (i), and (j) of this section, is measured as follows:

(1) On a daily basis:

(i) Meals offered to each age/grade group must include the food components and food quantities specified in the meal pattern in paragraph (c) of this section;

(ii) Food products or ingredients used to prepare meals must contain zero grams of *trans* fat per serving or a minimal amount of naturally occurring *trans* fat as specified in paragraph (f) of this section; and

(iii) Meal selected by each student must have the number of food components required for a reimbursable meal and include at least one fruit or vegetable.

(2) Over a 5-day school week:

(i) Average calorie content of the meals offered to each age/grade group must be within the minimum and maximum calorie levels specified in paragraph (f) of this section;

(ii) Average saturated fat content of the meals offered to each age/grade group must be less than 10 percent of total calories as specified in paragraph (f) of this section;

(iii) Average sodium content of the meals offered to each age/grade group must not exceed the maximum level specified in paragraph (f) of this section;

(c) *Meal pattern for school breakfasts.* A school must offer the food components and quantities required in the breakfast meal pattern established in the following table:

	Breakfast meal pattern		
	Grades K–5	Grades 6–8	Grades 9–12
Meal pattern	Amount of food ^a per week (Minimum per day)		

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	Breakfast meal pattern		
	Grades K–5	Grades 6–8	Grades 9–12
Fruits (cups) ^{b c}	5 (1)	5 (1)	5 (1)
Vegetables (cups) ^{b c}	0	0	0
Dark green	0	0	0
Red/Orange	0	0	0
Beans and peas (legumes)	0	0	0
Starchy	0	0	0
Other	0	0	0
Grains (oz eq) ^d	7–10 (1)	8–10 (1)	9–10 (1)
Meats/Meat Alternates (oz eq) ^e	0	0	0
Fluid milk ^f (cups)	5 (1)	5 (1)	5 (1)
Other Specifications: Daily Amount Based on the Average for a 5-Day Week			
Min-max calories (kcal) ^{g h}	350–500	400–550	450–600
Saturated fat (% of total calories) ^h	<10	<10	<10
Sodium (mg) ^{h i}	≤430	≤470	≤500
Trans fat ^{h j}	Nutrition label or manufacturer specifications must indicate zero grams of <i>trans</i> fat per serving.		

^a Food items included in each group and subgroup and amount equivalents. Minimum creditable serving is 1/8 cup.

^b One quarter cup of dried fruit counts as 1/2 cup of fruit; 1 cup of leafy greens counts as 1/2 cup of vegetables. No more than half of the fruit or vegetable offerings may be in the form of juice. All juice must be 100% full-strength.

^c Beginning July 1, 2014 (SY 2014–2015) schools must offer 1 cup of fruit daily and 5 cups of fruit weekly. Vegetables may be substituted for fruits, but the first two cups per week of any such substitution must be from the dark green, red/orange, beans and peas (legumes) or “Other vegetables” subgroups, as defined in 210.10(c)(2)(iii).

^d Beginning July 1, 2013 (SY 2013–2014), at least half of grains offered must be whole-grain-rich and schools must meet the grain ranges. Schools may substitute 1 oz. eq. of meat/meat alternate for 1 oz. eq. of grains after the minimum daily grains requirement is met. By July 1, 2014 (SY 2014–15) all grains must be whole-grain-rich.

^e There is no meat/meat alternate requirement.

^f Beginning July 1, 2012 (SY 2012–2013) all fluid milk must be low-fat (1 percent milk fat or less, unflavored) or fat-free (unflavored or flavored).

^g Beginning July 1, 2013 (SY 2013–2014), the average daily calories for a 5-day school week must be within the range (at least the minimum and no more than the maximum values).

^h Discretionary sources of calories (solid fats and added sugars) may be added to the meal pattern if within the specifications for calories, saturated fat, *trans* fat, and sodium. Foods of minimal nutritional value and fluid milk with fat content greater than 1 percent milk fat are not allowed.

ⁱ Final sodium targets must be met no later than July 1, 2022 (SY 2022–2023). The first intermediate targets must be met no later than July 1, 2014 (SY 2014–2015) and the second intermediate targets must be met no later than July 1, 2017 (SY 2017–2018).

^j *Trans* fat restrictions must be implemented on July 1, 2013 (SY 2013–14).

(1) *Age/grade groups.* Effective July 1, 2013 (SY 2013–2014), schools must plan menus for students using the following age/grade groups: Grades K–5 (ages 5–10), grades 6–8 (ages 11–13), and grades 9–12 (ages 14–18). If an unusual grade configuration in a school prevents the use of the established age/grade groups, students in grades K–5 and grades 6–8 may be offered the same food quantities at breakfast provided that the calorie and sodium standards for each age/grade group are met. No customization of the established age/grade groups is allowed.

(2) *Food components.* Schools must offer students in each age/grade group the food components specified in meal pattern in paragraph (c). Food component descriptions in §210.10 of this chapter apply to this Program.

(i) *Meats/meat alternates component.* Schools are not required to offer meats/meat alternates as part of the breakfast menu. Effective July 1, 2013 (SY

2013–2014), schools may substitute meats/meat alternates for grains, after the daily grains requirement is met, to meet the weekly grains requirement. One ounce equivalent of meat/meat alternate is equivalent to one ounce equivalent of grains.

(A) *Enriched macaroni.* Enriched macaroni with fortified protein as defined in appendix A to part 210 may be used to meet part of the meats/meat alternates requirement when used as specified in appendix A to part 210. An enriched macaroni product with fortified protein as defined in appendix A to part 210 may be used to meet part of the meats/meat alternates component or the grains component but may not meet both food components in the same lunch.

(B) *Nuts and seeds.* Nuts and seeds and their butters are allowed as meat alternates in accordance with program guidance. Acorns, chestnuts, and coconuts may not be used because of their low

protein and iron content. Nut and seed meals or flours may be used only if they meet the requirements for Alternate Protein Products established in appendix A to part 220. Nuts or seeds may be used to meet no more than one-half (50 percent) of the meats/meat alternates component with another meats/meat alternates to meet the full requirement.

(C) *Yogurt*. Yogurt may be used to meet all or part of the meats/meat alternates component. Yogurt may be plain or flavored, unsweetened or sweetened. Noncommercial and/or non-standardized yogurt products, such as frozen yogurt, drinkable yogurt products, homemade yogurt, yogurt flavored products, yogurt bars, yogurt covered fruits and/or nuts or similar products are not creditable. Four ounces (weight) or $\frac{1}{2}$ cup (volume) of yogurt equals one ounce of the meats/meat alternates requirement.

(D) *Tofu and soy products*. Commercial tofu and soy products may be used to meet all or part of the meats/meat alternates component in accordance with FNS guidance. Noncommercial and/or non-standardized tofu and products are not creditable.

(E) *Beans and peas (legumes)*. Cooked dry beans and peas (legumes) may be used to meet all or part of the meats/meat alternates component. Beans and peas (legumes) are identified in this section and include foods such as black beans, garbanzo beans, lentils, kidney beans, mature lima beans, navy beans, pinto beans, and split peas.

(F) *Other meat alternates*. Other meat alternates, such as cheese and eggs, may be used to meet all or part of the meats/meat alternates component in accordance with FNS guidance.

(ii) *Fruits component*. Effective July 1, 2014 (SY 2014–2015), schools must offer daily the fruit quantities specified in the breakfast meal pattern in paragraph (c) of this section. Fruits that are fresh; frozen without added sugar; canned in light syrup, water or fruit juice; or dried may be offered to meet the fruits component requirements. Vegetables may be offered in place of all or part of the required fruits at breakfast, but the first two cups per week of any such substitution must be from the dark green, red/orange, beans

and peas (legumes) or other vegetable subgroups, as defined in this section. All fruits are credited based on their volume as served, except that $\frac{1}{4}$ cup of dried fruit counts as $\frac{1}{2}$ cup of fruit. Only pasteurized, full-strength fruit juice may be used, and may be credited to meet no more than one-half of the fruit component.

(iii) *Vegetables component*. Schools are not required to offer vegetables as part of the breakfast menu but may, effective July 1, 2014 (SY 2014–2015), offer vegetables to meet part or all of the fruit requirement. Fresh, frozen, or canned vegetables and dry beans and peas (legumes) may be offered to meet the fruit requirement. All vegetables are credited based on their volume as served, except that 1 cup of leafy greens counts as $\frac{1}{2}$ cup of vegetables and tomato paste and tomato puree are credited based on calculated volume of the whole food equivalency. Pasteurized, full-strength vegetable juice may be used to meet no more than one-half of the vegetable component. Cooked dry beans or peas (legumes) may be counted as either a vegetable or as a meat alternate but not as both in the same meal.

(iv) *Grains component*. (A) *Enriched and whole grains*. All grains must be made with enriched and whole grain meal or flour, in accordance with the most recent FNS guidance on grains. Whole grain-rich products must contain at least 50 percent whole grains and the remaining grains in the product must be enriched. Effective July 1, 2013 (SY 2013–2014), schools may substitute meats/meat alternates for grains, after the daily grains requirement is met, to meet the weekly grains requirement. One ounce equivalent of meat/meat alternate is equivalent to one ounce equivalent of grains.

(B) *Daily and weekly servings*. Effective July 1, 2013 (SY 2013–2014), the grains component is based on minimum daily servings plus total servings over a five-day school week. Beginning July 1, 2013 (SY 2013–2014), half of the grains offered during the school week must meet the whole grain-rich criteria specified in FNS guidance. Beginning July 1, 2014 (SY 2014–2015), all grains must meet the whole grain-rich criteria specified in FNS guidance. The

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whole grain-rich criteria provided in FNS guidance may be updated to reflect additional information provided voluntarily by industry on the food label or a whole grains definition by the Food and Drug Administration. Schools serving breakfast 6 or 7 days per week must increase the weekly grains quantity by approximately 20 percent ($\frac{1}{5}$) for each additional day. When schools operate less than 5 days per week, they may decrease the weekly quantity by approximately 20 percent ($\frac{1}{5}$) for each day less than five. The servings for biscuits, rolls, muffins, and other grain/bread varieties are specified in FNS guidance.

(3) *Food components in outlying areas.* Schools in American Samoa, Puerto Rico and the Virgin Islands may serve a vegetable such as yams, plantains, or sweet potatoes to meet the grains component.

(d) *Fluid milk requirement.* A serving of fluid milk as a beverage or on cereal or used in part for each purpose must be offered for breakfasts. Schools must offer students a variety (at least two different options) of fluid milk. Effective July 1, 2012 (SY 2012–2013), all milk must be fat-free or low-fat. Milk with higher fat content is not allowed. Fat-free fluid milk may be flavored or

unflavored, and low-fat fluid milk must be unflavored. Low fat or fat-free lactose-free and reduced-lactose fluid milk may also be offered. Schools must also comply with other applicable fluid milk requirements in §210.10(d)(1) through (4) of this chapter.

(e) *Offer versus serve.* School breakfast must offer daily at least the three food components required in the meal pattern in paragraph (c) of this section. To exercise the offer versus serve option at breakfast, a school food authority or school must offer a minimum of four food items daily as part of the required components. Under offer versus serve, students are allowed to decline one of the four food items, provided that students select at least $\frac{1}{2}$ cup of the fruit component for a reimbursable meal beginning July 1, 2014 (SY 2014–2015). If only three food items are offered at breakfast, school food authorities or SUs may use the offer versus serve option.

(f) *Dietary specifications—(1) Calories.* Effective July 1, 2013 (SY 2013–2014), school breakfasts offered to each age/grade group must meet, on average over the school week, the minimum and maximum calorie levels specified in the following table:

CALORIE RANGES FOR BREAKFAST—EFFECTIVE SY 2013–2014

	Grades K–5	Grades 6–8	Grades 9–12
Minimum-maximum calories (kcal) ^{a b}	350–500	400–550	450–600

^a The average daily amount for a 5-day school must fall within the minimum and maximum levels.

^b Discretionary sources of calories (solid fats and added sugars) may be added to the meal pattern if within the specifications for calories, saturated fat, trans fat, and sodium.

(2) *Saturated fat.* Effective July 1, 2012 (SY 2012–2013), school breakfasts offered to all age/grade groups must, on average over the school week, provide less than 10 percent of total calories from saturated fat.

(3) *Sodium.* School breakfasts offered to each age/grade group must meet, on average over the school week, the levels of sodium specified in the following table within the specified deadlines:

SODIUM REDUCTION: TIMELINE & AMOUNT

Age/grade group	Baseline: average current sodium levels as offered ¹ (mg)	Target 1: July 1, 2014 SY 2014–2015 (mg)	Target 2: July 1, 2017 SY 2017–2018 (mg)	Final Target: July 1, 2022 SY 2022–2023 (mg)
School Breakfast Program				
K–5	573 (elementary)	≤540	≤485	≤430
6–8	629 (middle)	≤600	≤535	≤470
9–12	686 (high)	≤640	≤570	≤500

¹ SNDA–III.

(4) *Trans fat*. Effective July 1, 2013 (SY 2013–2014), food products and ingredients used to prepare school meals must contain zero grams of *trans* fat (less than 0.5 grams) per serving. Schools must add the *trans* fat specification and request the required documentation (nutrition label or manufacturer specifications) in their procurement contracts. Documentation for food products and food ingredients must indicate zero grams of *trans* fat per serving. Meats that contain a minimal amount of naturally-occurring *trans* fats are allowed in the school meal programs.

(g) *Compliance assistance*. The State agency and school food authority must provide technical assistance and training to assist schools in planning breakfasts that meet the meal pattern in paragraph (c) of this section and the dietary specifications for calorie, saturated fat, sodium, and *trans* fat established in paragraph (f) of this section. Compliance assistance may be offered during training, onsite visits, and/or administrative reviews.

(h) *State agency responsibilities for monitoring dietary specifications*. (1) *Calories, saturated fat, and sodium*. Effective July 1, 2013 (SY 2013–2014), as part of the administrative review authorized under § 210.18 of this chapter, State agencies must conduct a weighted nutrient analysis for the school(s) selected for review to evaluate the average levels of calories, saturated fat, and sodium of the breakfasts offered during one week within the review period. The nutrient analysis must be conducted in accordance with the procedures established in § 210.10(i) of this chapter. If the results of the review indicate that the school breakfasts are not meeting the standards for calories, saturated fat, or sodium specified in paragraph (f) of this section, the State agency or school food authority must provide technical assistance and require the reviewed school to take corrective action to meet the requirements.

(2) *Trans fat*. Effective SY 2013–2014, State agencies conducting an administrative review must review product labels of manufacturer specifications to verify that the food products or ingredients used by the reviewed school(s)

contain zero grams of *trans* fat (less than 0.5 grams) per serving.

(i) *State agency responsibilities for nutrient analysis*. State agencies must conduct a weighted nutrient analysis of all foods offered in a reimbursable breakfast by a school selected for administrative review to determine the average levels of calories, saturated fat, and sodium in the meals offered over a school week within the review period. The analysis must be conducted in accordance with the procedures established in § 210.10(i) of this chapter.

(j) *State agency's responsibilities for compliance monitoring*. Effective SY 2013–2014, compliance with the applicable meal requirements in paragraph (b) will be monitored by the State agency through administrative reviews authorized in § 210.18 of this chapter.

(k) *Menu choices at breakfast*. The requirements in § 210.10(k) of this chapter also apply to this Program.

(l) *Requirements for breakfast period*. (1) *Timing*. Schools must offer breakfasts meeting the requirements of this section at or near the beginning of the school day.

(2) [Reserved]

(m) *Exceptions and variations allowed in reimbursable meals*. The requirements in § 210.10(m) of this chapter also apply to this Program.

(n) *Nutrition disclosure*. The requirements in § 210.10(n) of this chapter also apply to this Program.

(o) *Breakfasts for preschoolers and infants*. (1) *Nutrition standards for breakfasts for children age 1 to 4*. Until otherwise instructed by the Secretary, breakfasts for preschoolers, when averaged over a school week, must meet the nutrition standards and the appropriate nutrient and calorie levels in this section. The nutrition standards are:

(i) Provision of one-fourth of the Recommended Dietary Allowances (RDA) for protein, calcium, iron, vitamin A and vitamin C in the appropriate levels (see paragraph (o)(2) of this section);

(ii) Provision of the breakfast energy allowances (calories) for children in the appropriate levels (see paragraph (o)(2) of this section);

(iii) The following dietary recommendations:

(A) Eat a variety of foods;

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(B) Limit total fat to 30 percent of total calories;

(C) Limit saturated fat to less than 10 percent of total calories;

(D) Choose a diet low in cholesterol;

(E) Choose a diet with plenty of grain products, vegetables, and fruits; and

(F) Choose a diet moderate in salt and sodium.

(iv) The following measures of compliance:

(A) Limit the percent of calories from total fat to 30 percent of the actual number of calories offered;

(B) Limit the percent of calories from saturated fat to less than 10 percent of the actual number of calories offered;

(C) Reduce sodium and cholesterol levels; and

(D) Increase the level of dietary fiber.

(v) School food authorities must follow the traditional food-based menu planning approach to plan breakfasts

for preschoolers and provide daily the food components and quantities specified in paragraph (o)(3) of this section.

(vi) Schools must keep production and menu records for the breakfasts they produce. These records must show how the breakfasts contribute to the required food components and food quantities every school day. In addition, these records must show how the breakfasts contribute to the nutrition standards in paragraph (o)(1) of this section and the appropriate calorie and nutrient levels in paragraph (o)(2) of this section over the school week. Schools or school food authorities must maintain records of the latest nutritional analysis of the school menus conducted by the State agency.

(2) *Nutrient and calorie levels for breakfasts for preschoolers.* Under the traditional food-based menu planning approach, the required levels are:

MINIMUM NUTRIENT AND CALORIE LEVELS FOR SCHOOL BREAKFASTS

[Traditional Food-Based Menu Planning Approach]

	Age 2 ¹	Ages 3–4
Nutrients and energy allowances	School week averages	
Energy allowances (calories)	325	388
Total fat (as a percentage of actual total food energy)	(2)	(2)
Saturated fat (as a percentage of actual total food energy)	(2)	(2)
RDA for protein (g)	4	5
RDA for calcium (mg)	200	200
RDA for iron (mg)	2.5	2.5
RDA for Vitamin A (RE)	100	113
RDA for Vitamin C (mg)	10	11

¹ Nutrient and calorie levels start at age 2 because the "Dietary Guidelines for Americans" apply to ages 2 and older.

² The 1995 "Dietary Guidelines for Americans" recommend that after 2 years of age "children should gradually adopt a diet that, by about 5 years of age, contains no more than 30 percent of calories from fat."

(3) *Meal pattern for preschoolers.* (i) *Food items.* Schools must offer these food items in at least the portions required for each age group:

(A) A serving of fluid milk as a beverage or on cereal or used partly for both;

(B) A serving of fruit or vegetable or both, or full-strength fruit or vegetable juice; and

(C) Two servings from one of the following components or one serving from each component:

(1) Grains/breads; and/or

(2) Meat/meat alternate.

(ii) *Quantities for the traditional food-based menu planning approach.* At a minimum, schools must offer the food items in the quantities specified for the appropriate age/grade group in the following table:

TRADITIONAL FOOD-BASED MENU PLANNING APPROACH MEAL PLAN FOR BREAKFASTS

	Ages 1–2	Ages 3–4
Food components and food items	School week averages	
Fluid milk (as a beverage, on cereal, or both)	4 fluid ounces	6 fluid ounces ¹ .

TRADITIONAL FOOD-BASED MENU PLANNING APPROACH MEAL PLAN FOR BREAKFASTS—Continued

	Ages 1–2	Ages 3–4
Juice/Fruit/Vegetable: Fruit and/or vegetable; or full-strength fruit or vegetable juice.	¼ cup	½ cup.
Select one serving from each of the following components, two from one component, or an equivalent combination:		
Grains/Breads:		
Whole grain or enriched bread	½ slice	½ slice.
Whole grain or enriched bread product, such as biscuit, roll, muffin.	½ serving	½ serving.
Whole grain, enriched or fortified cereal	¼ cup or ⅓ ounce	⅓ cup or ½ ounce.
Meat or Meat Alternates:		
Meat/poultry or fish	½ ounce	½ ounce.
Alternate protein products ²	½ ounce	½ ounce.
Cheese	½ ounce	½ ounce.
Large egg	½	½
Peanut butter or other nut or seed butters	1 tablespoon	1 tablespoon.
Cooked dry beans and peas	2 tablespoons	2 tablespoons.
Nuts and/or seeds (as listed in program guidance) ³ ..	½ ounce	½ ounce.
Yogurt, plain or flavored, unsweetened or sweetened	2 ounces or ¼ cup	2 ounces or ¼ cup.

¹ Fluid milk for children ages 3–4 must be fat-free (unflavored or flavored) or low-fat (unflavored only)

² Must meet the requirements in appendix A of this part.

³ No more than 1 ounce of nuts and/or seeds may be served in any one breakfast.

(iii) *Offer versus serve.* Schools must offer all four required food items. At the school food authority's option, students in preschool may decline one of the four food items. The price of a reimbursable breakfast does not change if the student does not take a menu item or requests smaller portions.

(iv) *Exceptions and variations allowed in reimbursable breakfasts.* Schools must follow the requirements in §210.10(m) of this chapter.

(4) *Fluid milk requirement.* A serving of fluid milk as a beverage or on cereal or used in part for each purpose must be offered for breakfasts. Schools must offer students in age group 1–2 fluid milk in a variety of fat contents, flavored or unflavored. Schools may also offer this age group lactose-free or reduced-lactose fluid milk. For students in age group 3–4, schools must offer fat-free milk (unflavored or flavored) and low-fat milk (unflavored only). Schools may also offer this age group lactose-free and reduced-lactose milk that is fat-free or low-fat. Students in age group 3–4 must be offered a variety (at least two different options) of fluid milk. All milk served in the Program must be pasteurized fluid milk which meets State and local standards for such milk. All fluid milk must have vitamins A and D at levels specified by the Food and Drug Administration and must be consistent with State and

local standards for such milk. Schools must also comply with other applicable milk requirements in §210.10(d)(2), §210.10(d)(3), and §210.10(d)(4) of this chapter.

(5) *Additional foods.* Schools may offer additional foods with breakfasts to children over one year of age.

(6) *Menu choices at breakfast.* Schools must follow the requirements in §210.10(l) of this chapter.

(7) *Exceptions and variations allowed in reimbursable meals.* Schools must follow the requirements in §210.10(m) of this chapter.

(8) *Nutrition disclosure.* Schools must follow the requirements in §210.10(n) of this chapter.

(9) *State agency's responsibilities for monitoring breakfasts.* As part of the administrative review authorized under §210.18(g)(2) of this chapter, State agencies must evaluate compliance with the meal pattern requirements (food components and quantities) in paragraph (o)(3) of this section. If the meals do not meet the requirements of this section, the State agency or school food authority must provide technical assistance and require the reviewed school to take corrective action. In addition, the State agency must take fiscal action as authorized in §210.18(m) and 210.19(c) of this chapter.

(10) *Requirements for the infant breakfast pattern.* (i) *Feeding breakfasts to infants.* Breakfasts served to infants ages birth through 11 months must meet the requirements described in paragraph (o)(11)(iv) of this section. Foods included in the breakfast must be of a texture and a consistency that are appropriate for the age of the infant being served. The foods must be served during a span of time consistent with the infant's eating habits. For those infants whose dietary needs are more individualized, exceptions to the meal pattern must be made in accordance with the requirements found in § 210.10(m) of this chapter.

(ii) *Breastmilk and iron-fortified formula.* Either breastmilk or iron-fortified infant formula, or portions of both, must be served for the entire first year. Meals containing breastmilk and meals containing iron-fortified infant formula supplied by the school are eligible for reimbursement. However, infant formula provided by a parent (or guardian) and breastmilk fed directly by the infant's mother, during a visit to the school, contribute to a reimbursable breakfast only when the school supplies at least one component of the infant's meal.

(iii) *Solid foods.* For infants ages 4 through 7 months, solid foods of an appropriate texture and consistency are required only when the infant is developmentally ready to accept them. The school should consult with the infant's parent (or guardian) in making the decision to introduce solid foods. Solid foods should be introduced one at a time, on a gradual basis, with the intent of ensuring the infant's health and nutritional well-being.

(iv) *Infant meal pattern.* Infant breakfasts must have, at a minimum, each of the food components indicated, in the amount that is appropriate for the in-

fant's age. For some breastfed infants who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be offered. In these situations, additional breastmilk must be offered if the infant is still hungry. Breakfasts may include portions of breastmilk and iron-fortified infant formula as long as the total number of ounces meets, or exceeds, the minimum amount required of this food component. Similarly, to meet the component requirement for vegetables and fruit, portions of both may be served.

(A) *Birth through 3 months.* 4 to 6 fluid ounces of breastmilk or iron-fortified infant formula—only breastmilk or iron-fortified formula is required to meet the infant's nutritional needs.

(B) *4 through 7 months.* Breastmilk or iron-fortified formula is required. Some infants may be developmentally ready for solid foods of an appropriate texture and consistency. Breakfasts are reimbursable when schools provide all of the components in the meal pattern that the infant is developmentally ready to accept.

(1) 4 to 8 fluid ounces of breastmilk or iron-fortified infant formula; and

(2) 0 to 3 tablespoons of iron-fortified dry infant cereal.

(C) *8 through 11 months.* Breastmilk or iron-fortified formula and solid foods of an appropriate texture and consistency are required.

(1) 6 to 8 fluid ounces of breastmilk or iron-fortified infant formula; and

(2) 2 to 4 tablespoons of iron-fortified dry infant cereal; and

(3) 1 to 4 tablespoons of fruit or vegetable.

(v) *Infant meal pattern table.* The minimum amounts of food components to serve to infants, as described in paragraph (o)(11)(iv) of this section, are:

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Birth through 3 months	4 through 7 months	8 through 11 months
4–6 fluid ounces of formula ¹ or breastmilk ^{2,3}	4–8 fluid ounces of formula ¹ or breastmilk; ^{2,3} and 0–3 tablespoons of infant cereal ^{1,4}	6–8 fluid ounces of formula ¹ or breastmilk; ^{2,3} and 2–4 tablespoons of infant cereal; ¹ and 1–4 tablespoons of fruit or vegetable or both.

¹ Infant formula and dry infant cereal must be iron-fortified.

² Breastmilk or formula, or portions of both, may be served; however, it is recommended that breastmilk be served from birth through 11 months.

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³For some breastfed infants who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be offered, with additional breastmilk offered if the infant is still hungry.

⁴A serving of this component is required only when the infant is developmentally ready to accept it.

[77 FR 4154, Jan. 26, 2012, as amended at 78 FR 39093, June 28, 2013]

§ 220.9 Reimbursement payments.

(a) State agencies, or FNSRO's where applicable, shall make reimbursement payments to schools only in connection with breakfasts meeting the requirements of § 220.8, and reported in accordance with § 220.11(b) of this part. School Food Authorities shall plan for and prepare breakfasts on the basis of participation trends, with the objective of providing one breakfast per child per day. Production and participation records shall be maintained to demonstrate positive action toward this objective. In recognition of the fluctuation in participation levels which makes it difficult to precisely estimate the number of breakfasts needed and to reduce the resultant waste, any excess breakfasts that are prepared may be served to eligible children and may be claimed for reimbursement unless the State agency, or FNSRO where applicable, determines that the School Food Authority has failed to plan and prepare breakfasts with the objective of providing one breakfast per child per day. In no event shall the School Food Authority claim reimbursement for free and reduced price breakfasts in excess of the number of children approved for free and reduced price meals.

(b) The rates of reimbursement for breakfasts served to eligible children in schools not in severe need are the applicable national average payment factors for breakfasts. The maximum rates of reimbursement for breakfasts served to eligible children in schools determined to be in severe need are those prescribed by the Secretary. National average payment factors and maximum rates of reimbursement for the School Breakfast Program shall be prescribed annually by the Secretary in the FEDERAL REGISTER.

(c) The total reimbursement for breakfasts served to eligible children in schools not in severe need, and schools in severe need during the school year shall not exceed the sum of the products obtained by multiplying

the total numbers of such free, reduced price and paid breakfasts, respectively, by the applicable rate of reimbursement for each type of breakfast as prescribed for the school year.

(d) The State agency, or FNSRO where applicable, shall determine whether a school is in severe need based on the following eligibility criteria:

(1) The school is participating in or desiring to initiate a breakfast program; and

(2) At least 40 percent of the lunches served to students at the school in the second preceding school year were served free or at a reduced price. Schools that did not serve lunches in the second preceding year and that would like to receive reimbursement at the severe need rate may apply to their administering State agency. The administering State agency shall approve or deny such requests in accordance with guidance, issued by the Secretary, that determines that the second preceding school year requirement would otherwise have been met.

(Sec. 6, Pub. L. 95-627, 92 Stat. 3620 (42 U.S.C. 1776; secs. 801, 803, 812; Pub. L. 97-35, 95 Stat. 521-535, 42 U.S.C. 1753, 1759(a), 1758, 1773; sec. 819, Pub. L. 97-35, 95 Stat. 533 (42 U.S.C. 1759a, 1773 and 1757); 44 U.S.C. 3506))

[Amdt. 25, 41 FR 34760, Aug. 17, 1976, as amended by Amdt. 29, 44 FR 48159, Aug. 17, 1979; Amdt. No. 38, 46 FR 50928, Oct. 16, 1981; 46 FR 51368, Oct. 20, 1981; 47 FR 746, Jan. 7, 1982; 47 FR 31375, July 20, 1982; 48 FR 40196, 40197, Sept. 6, 1983; 60 FR 31222, June 13, 1995; 65 FR 26923, May 9, 2000; 70 FR 66249, Nov. 2, 2005]

§ 220.10 Effective date for reimbursement.

Reimbursement payments under the School Breakfast Program may be made only to School Food Authorities operating under an agreement with the State Agency or the Department, and may be made only after execution of the agreement. Such payments may include reimbursement in connection with breakfasts served in accordance with provisions of the program in the calendar month preceding the calendar